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May 20, 1999

Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street S.W., Room TWB-204
Washington, DC 20554

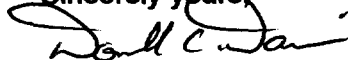
RE: **GTE-Bell Atlantic Merger – CC Docket No. 98-184**
Southwestern Bell/Ameritech Merger – CC Docket No. 98-141 /

On March 23, 1999, Heather Gold, Julia Strow and I of Intermedia met with various members of the Commission Staff that are reviewing the pending mergers between Bell Atlantic/GTE and SBC/Ameritech. With regard to those mergers, Intermedia Communications Inc. ("Intermedia") has not taken a position either supporting or opposing the proposed mergers but rather has sought to identify appropriate safeguards to ensure that local markets and consumer choice will continue to develop in a post merger environment.

The context of the March 23rd meeting was to provide the Commission with relevant input regarding Intermedia's experience with the companies involved in current merger reviews as well as prior experience with the Bell Atlantic/NYNEX and SBC/PacBell mergers. To further aid the Commission in its review, Intermedia hereby submits Attachment I which is a formal written response to questions raised prior to and during the March 23rd meeting. Please include this material as a written ex parte contact in the above referenced proceedings.

Intermedia continues to believe that the Department of Justice and the Federal Communications Commission are in a much better position than Intermedia to review the "appropriateness" of proposed merger arrangements. To that end Intermedia supports "voluntary commitments" on the part of merger participants as those parties deem necessary to protect the needs of consumers and/or competitors. Intermedia urges the Commission to ensure that such commitments include significant financial penalties which would apply for failure to implement such promises in a timely fashion.

Sincerely yours,



Donald C. Davis
Assistant Vice President – Industry Policy

Attachment

cc: Quyen Truong
Johanna Mikes

**Intermedia Communications Inc.
General Comments on ILEC Mergers
5/20/99**

1. Has "compliance" changed post-merger vs. pre-merger for BA/NYNEX and SBC/PacBell?

SBC/PacBell: What we have seen post-merger is a general retraction of very proactive PacBell positions on items such as digital UNEs and interfaces. It appears that SWB has taken over on high-level policy issues and adopted more restrictive positions on issues involving the infrastructure necessary to support digital elements. In essence, a company that was once very procompetitive and technologically advanced is now lagging due to the policies and culture of its acquirer.

BA/NYNEX: As BA has taken control, we have seen some retrenchment on the part of former NYNEX personnel. NYNEX was more likely in the past to develop work-arounds or do things in a non-standard manner than BA. The whole region is more "by-the-book" now. As to pure compliance with the Act, we can't document any specific change. However, while not specifically related to the merger, we have seen BA take a much more restrictive stance in regard to the requirements of the Act in the last 6 to 12 months. If it isn't in black and white, they will not agree to provide it.

2. How would Intermedia suggest improving compliance?

Performance metrics and penalties are required to prevent backsliding. Intermedia would support the performance penalty framework we proposed in Pennsylvania or, in the alternative, that adopted in Texas during the collaborative process.

Intermedia supports adoption of a broad range of performance measures such as that adopted in New York. (We support the New York metrics but oppose their penalty proposal as it is very ILEC oriented in that it allows BA to offset services misses in one category or for one month with better performance in other categories or months. It also does not contain sufficient penalties to discourage discrimination.)

Performance measures must be disaggregated to look at the products, services, trunks, collocation and UNEs being ordered by individual CLECs due to the impact non-performance has on our ability to serve our customers. What this means is that performance measures must look at not just resale of POTS, but also at resale of complex services such as frame relay. Likewise, UNEs used to provision complex end user services must also be measured. Where a retail analog to the ILEC is present, it must be used for comparison purposes. Where no retail analog exists, target intervals or standards must be made explicit. For example, there should be a target interval for ILEC return of firm order confirmations (FOC) or provisioning of hot-cut DS1 loops.

3. How would Intermedia respond to SBC's arguments that they have to get bigger in order to compete out of region?

RBOCs can compete out of region today but have not on any wide-scale basis. The majority of activity has been in the BellSouth territory where BellSouth is becoming certified as a CLEC and serving areas contiguous to their ILEC operating areas. In Southwestern Bell territory, the opposite has happened; Ameritech appears to have pulled back from plans to serve the St. Louis area.

Any massive entry into out of region territory is more likely to be based upon advances in technology rather than increased capital availability. We are beginning to see ATM and packet technology with direct applications for switched voice services. This decreases the cost of a local switch from the current minimum of \$2.5M to an amount of less than \$300k. With Williams and Qwest, we have seen fiber facilities become available on a true incremental cost basis making long haul transport extremely cheap. Such cost reductions are what will drive any ILEC to expand into other territory rather than increased size.

4. What other tools does the FCC have to regulate these companies?

The Commission and DOJ should continue to use the merger review process as a mechanism to ensure that proposed mergers will not reverse the onward drive toward competition. The continued use of voluntary commitments by the Commission and DOJ as tool to ensure competition is appropriate. However, in Comments filed with the FCC on the status of implementation of the BA/NYNEX merger commitments, we strongly stated that the Commission should adopt specific timelines for implementation of merger commitments. In association with these timelines, the Commission must impose significant financial penalties for failure to comply with any commitments. Such penalties should be incorporated into any negotiated merger agreements.

As an alternative, the Commission could require operation under separate affiliate rules similar to those required of CI-III subsidiaries.

5. Has Intermedia had any interconnection experience with separate affiliates of the ILECs?

Yes, Intermedia has had experience with Ameritech in regard to provision of frame relay services through its data affiliate (Ameritech Advanced Data Services - AADS).

In our initial local interconnection contracts, Intermedia has sought to include local frame relay interconnection arrangements as a part of any negotiated agreement. Ameritech initially refused to incorporate such interconnection into our agreement because its frame relay services were offered through a separate affiliate. It was Ameritech's contention that frame relay services were "enhanced services" and thus, its separate affiliate did not have to provide interconnection under the terms of the Telecommunications Act. Intermedia took Ameritech "to arbitration" over this issue. Ameritech eventually agreed to provide such interconnection and the arbitration was settled.

6. What is Intermedia's position relative to interim interLATA relief for GTE long distance operations at the time of any BA/GTE merger?

In regard to voice traffic, Intermedia is not opposed to a short period of time post-merger to allow BA/GTE to move any existing customers to an alternative interLATA carrier. During that period of time, BA/GTE should not be allowed to sign up any new customers for interLATA service unless it has received relief under Sections 271 and 272 of the Telecommunications Act.

In ex parte presentations with the FCC, BA/GTE initially proposed broad exceptions to existing rules to allow it to continue to offer ISP backbone services across LATA boundaries. GTE currently offers such services without restrictions. The initial proposal of BA/GTE generally supported a one data LATA rule as proposed in earlier Section 706 petitions. That proposal would allow BA relief for the entire region for data services as soon as New York 271 relief is granted. Intermedia opposed interim relief for data traffic on the same basis as we previously opposed the RBOC 706 Petitions.